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H.L.C. Amendment no.:	1b
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Disposition:	Not Agreed to by 6 years and 11 days

**AMENDMENT TO MR. DEAL'S AMENDMENT IN THE  
NATURE OF A SUBSTITUTE FOR H.R. 4157  
OFFERED BY MR. BROWN OF OHIO**

[Based on HEALTHHIT02A of June 1, 2006]

At the end of title I, add the following new section:

1 **SEC. 106. HEALTH INFORMATION TECHNOLOGY PAYMENT**

2 **ADD-ONS, GRANTS, AND LOANS.**

3 (a) **MEDICARE ADD-ON PAYMENT FOR HEALTH IN-**  
4 **FORMATION TECHNOLOGY.—**

5 (1) **IN GENERAL.**—Notwithstanding any other  
6 provision of law, the Secretary of Health and  
7 Human Services (in this subsection referred to as  
8 the “Secretary”) shall provide for payment under  
9 this subsection (in a form and manner specified by  
10 the Secretary) to each health care provider that fur-  
11 nishes items or services for which payment may be  
12 made (but for the application of a deductible, coin-  
13 surance, or other cost-sharing) under part B of title  
14 XVIII of the Social Security Act of the amount spec-  
15 ified in paragraph (2) for items and services fur-  
16 nished by the provider during the period specified in  
17 paragraph (3). Such payments are in addition to  
18 payments otherwise made under such part. This sec-

1       tion constitutes budget authority in advance of ap-  
2       propriations Acts and represents the obligation of  
3       the Federal Government to provide for the payment  
4       of health care providers of the amounts provided  
5       under paragraph (2).

6               (2) PAYMENT AMOUNT.—

7               (A) IN GENERAL.—The payment amount  
8       under this paragraph with respect to items and  
9       services furnished under part B of title XVIII  
10      of the Social Security Act shall be such amount,  
11      over such period of time, as the Secretary de-  
12      termines appropriate based on the Secretary's  
13      estimates of the costs of providers to acquire  
14      and support qualified health information tech-  
15      nology, including training of personnel with re-  
16      spect to such technology. Subject to subpara-  
17      graph (C), such amount may be computed as a  
18      percent of the payment amount otherwise recog-  
19      nized under such part for the provider and  
20      items and services involved (determined without  
21      regard to the application of any deductibles, co-  
22      insurance, or other cost-sharing).

23              (B) SYSTEM REQUIREMENT.—No payment  
24      shall be made under this subsection for quali-

1           fied health information technology unless that  
2           technology includes—

3                   (i) an electronic medical record, in-  
4                   cluding computerized patient records, clin-  
5                   ical decision support, and clinical data re-  
6                   pository; and

7                   (ii) a computerized physician order  
8                   entry.

9           (C) LIMITATION.—In no case shall the  
10          payment amount under this subsection with re-  
11          spect to the acquisition or support of qualified  
12          health information technology for a health care  
13          provider, in addition to any grant made to the  
14          provider under subsection (a) of section 274 of  
15          the Public Health Service Act (as added by sub-  
16          section (b)) for such purpose and the amount of  
17          any loan made to the provider from a grant to  
18          a State under subsection (b) of such section for  
19          such purpose, exceed 100 percent of the pro-  
20          vider's costs for such acquisition or support  
21          (taking into account costs for training, imple-  
22          mentation, and maintenance).

23           (D) QUALIFIED HEALTH INFORMATION  
24          TECHNOLOGY DEFINED.—In this paragraph,  
25          the term “qualified health information tech-

1           nology” means a system or components of  
2           health information technology that meet any  
3           applicable core interoperability guidelines (en-  
4           dorsed under section 272(a)(3) of the Public  
5           Health Service Act) when in use or that use  
6           interface software that allows for interoper-  
7           ability in accordance with such guidelines.

8           (3) LIMITATION ON USE OF FUNDS.—Payments  
9           provided under this subsection to a health care pro-  
10          vider may only be used for the purchase and support  
11          of health information technology that meets any ap-  
12          plicable core interoperability guidelines (endorsed  
13          under section 272(a)(3) of the Public Health Service  
14          Act) either directly or through the use of interface  
15          software or other technology necessary to bring pre-  
16          existing systems into compliance with such guide-  
17          lines.

18          (4) SOURCE OF FUNDS.—Payments under para-  
19          graph (1) shall be made from the Federal Supple-  
20          mentary Medical Insurance Trust Fund, established  
21          under section 1841 of such Act (42 U.S.C. 1395t).

22          (5) HEALTH CARE PROVIDER DEFINED.—For  
23          purposes of this subsection, the term “health care  
24          provider” means a hospital, home health agency, or  
25          other provider of services or physician, health care

1 practitioner, or other supplier that furnishes items  
2 and services described in paragraph (1), but does  
3 not include a Medicare Advantage organization.

4 (6) APPLICATION TO INTEGRATED HEALTH  
5 CARE DELIVERY SYSTEMS.—The Secretary shall pro-  
6 vide for the application of the previous provisions of  
7 this subsection to a Medicare Advantage sponsor of-  
8 fering under part C of title XVIII of the Social Se-  
9 curity Act a Medicare Advantage plan that inte-  
10 grates the functions of health plan, hospital, physi-  
11 cian, laboratory, pharmacy, and other clinicians,  
12 with respect to items and services covered under  
13 part B of such title, in the same manner as it ap-  
14 plies to health care providers under part B of such  
15 title.

16 (b) GRANTS AND LOANS.—Part D of title II of the  
17 Public Health Service Act, as added by section 101 and  
18 as amended by sections 103 and 104, is amended by add-  
19 ing at the end the following new section:

20 **“SEC. 274. GRANTS TO FACILITATE THE WIDESPREAD**  
21 **ADOPTION OF INTEROPERABLE HEALTH IN-**  
22 **FORMATION TECHNOLOGY.**

23 **“(a) COMPETITIVE GRANTS TO ELIGIBLE ENTI-**  
24 **TIES.—**

1           “(1) IN GENERAL.—The Secretary may award  
2 competitive grants to eligible entities to facilitate the  
3 purchase and enhance the utilization of qualified  
4 health information technology systems to improve  
5 the quality and efficiency of health care.

6           “(2) ELIGIBILITY.—To be eligible to receive a  
7 grant under paragraph (1) an entity shall—

8           “(A) submit to the Secretary an applica-  
9 tion at such time, in such manner, and con-  
10 taining such information as the Secretary may  
11 require;

12           “(B) submit to the Secretary a strategic  
13 plan for the implementation of data sharing  
14 and interoperability measures;

15           “(C) be—

16           “(i) a nonprofit hospital or a Feder-  
17 ally qualified health center;

18           “(ii) an individual practice or group  
19 practice; or

20           “(iii) another health care provider not  
21 described in clause (i) or (ii);

22           “(D) adopt any applicable core interoper-  
23 ability guidelines (endorsed under section  
24 272(a)(3));

1           “(E) agree to notify patients if their indi-  
2           vidually identifiable health information is  
3           wrongfully disclosed;

4           “(F) demonstrate significant financial  
5           need; and

6           “(G) provide matching funds in accordance  
7           with paragraph (4).

8           “(3) USE OF FUNDS.—Amounts received under  
9           a grant under this subsection shall be used to facili-  
10          tate the purchase and enhance the utilization of  
11          qualified health information technology systems and  
12          training personnel in the use of such technology.

13          “(4) MATCHING REQUIREMENT.—To be eligible  
14          for a grant under this subsection an entity shall con-  
15          tribute non-Federal contributions to the costs of car-  
16          rying out the activities for which the grant is award-  
17          ed in an amount equal to \$1 for each \$3 of Federal  
18          funds provided under the grant.

19          “(5) LIMIT ON GRANT AMOUNT.—In no case  
20          shall the payment amount under this subsection with  
21          respect to the purchase or enhanced utilization of  
22          qualified health information technology for a health  
23          care provider, in addition to payments to the pro-  
24          vider under section 106(a) of the Better Health In-  
25          formation System Act of 2006 for such purpose and

1 the amount of any loan made to the provider from  
2 a grant to a State under subsection (b) of such sec-  
3 tion for such purpose, exceed 100 percent of the pro-  
4 vider's costs for such purchase or enhanced utiliza-  
5 tion (taking into account costs for training, imple-  
6 mentation, and maintenance).

7 “(6) PREFERENCE IN AWARDING GRANTS.—In  
8 awarding grants under this subsection the Secretary  
9 shall give preference to—

10 “(A) eligible entities that are located in  
11 rural, frontier, and other underserved areas as  
12 determined by the Secretary;

13 “(B) eligible entities that will link, to the  
14 extent practicable, the qualified health informa-  
15 tion system to local or regional health informa-  
16 tion plan or plans; and

17 “(C) with respect to an entity described in  
18 paragraph (2)(C)(iii), a nonprofit health care  
19 provider.

20 “(b) COMPETITIVE GRANTS TO STATES FOR THE DE-  
21 VELOPMENT OF STATE LOAN PROGRAMS.—

22 “(1) IN GENERAL.—The Secretary may award  
23 competitive grants to States for the establishment of  
24 State programs for loans to health care providers to



1 facilitate the purchase and enhance the utilization of  
2 qualified health information technology.

3 “(2) ESTABLISHMENT OF FUND.—To be eligi-  
4 ble to receive a competitive grant under this sub-  
5 section, a State shall establish a qualified health in-  
6 formation technology loan fund (referred to in this  
7 subsection as a ‘State loan fund’) and comply with  
8 the other requirements contained in this section. A  
9 grant to a State under this subsection shall be de-  
10 posited in the State loan fund established by the  
11 State. No funds authorized by other provisions of  
12 this section to be used for other purposes specified  
13 in this section shall be deposited in any State loan  
14 fund.

15 “(3) ELIGIBILITY.—To be eligible to receive a  
16 grant under paragraph (1) a State shall—

17 “(A) submit to the Secretary an applica-  
18 tion at such time, in such manner, and con-  
19 taining such information (including the stra-  
20 tegic plan described in paragraph (4)) as the  
21 Secretary may require;

22 “(B) prepare and periodically update a  
23 strategic plan under paragraph (4);

1           “(C) establish a qualified health informa-  
2           tion technology loan fund in accordance with  
3           paragraph (2);

4           “(D) require that health care providers re-  
5           ceiving such loans—

6                   “(i) link, to the extent practicable, the  
7                   qualified health information system to a  
8                   local or regional health information net-  
9                   work; and

10                   “(ii) agree to notify patients if their  
11                   individually identifiable health information  
12                   is wrongfully disclosed; and

13           “(E) require that health care providers re-  
14           ceiving such loans adopt any applicable core  
15           interoperability guidelines (endorsed under sec-  
16           tion 272(a)(3)).

17           “(4) STRATEGIC PLAN.—

18                   “(A) IN GENERAL.— A State that receives  
19                   a grant under this subsection shall prepare and  
20                   periodically update a strategic plan that identi-  
21                   fies the intended uses of amounts available to  
22                   the State loan fund of the State.

23                   “(B) CONTENTS.—A strategic plan under  
24                   subparagraph (A) shall include—

1                   “(i) a list of the projects to be as-  
2                   sisted through the State loan fund for each  
3                   fiscal year;

4                   “(ii) a description of the criteria and  
5                   methods established for the distribution of  
6                   funds from the State loan fund; and

7                   “(iii) the short-term and long-term  
8                   goals of the State loan fund.

9                   “(5) USE OF FUNDS.—

10                   “(A) IN GENERAL.—Amounts deposited in  
11                   a State loan fund, including loan repayments  
12                   and interest earned on such amounts, shall be  
13                   used only for awarding loans or loan guaran-  
14                   tees, or as a source of reserve and security for  
15                   leveraged loans, the proceeds of which are de-  
16                   posited in the State loan fund established under  
17                   paragraph (1). Loans under this section may be  
18                   used by a health care provider to facilitate the  
19                   purchase and enhance the utilization of quali-  
20                   fied health information technology and training  
21                   of personnel in the use of such technology.

22                   “(B) LIMITATION.—Amounts received by a  
23                   State under this subsection may not be used—

24                   “(i) for the purchase or other acquisi-  
25                   tion of any health information technology

1 system that is not a qualified health infor-  
2 mation technology system;

3 “(ii) to conduct activities for which  
4 Federal funds are expended under this sec-  
5 tion, or the amendments made by the Bet-  
6 ter Health Information System Act of  
7 2006;

8 “(iii) for any purpose other than mak-  
9 ing loans to eligible entities under this sec-  
10 tion; or

11 “(iv) for amounts above the total cost  
12 of the acquisition, implementation, training  
13 and maintenance of the qualified health in-  
14 formation system of a health care provider  
15 minus the sum of the amount of grant  
16 funds received by the provider for such  
17 purpose under subsection (a) and the  
18 amount of payments to the provider under  
19 section 106(a) of the Better Health Infor-  
20 mation System Act of 2006 for such pur-  
21 pose.

22 “(6) TYPES OF ASSISTANCE.—Except as other-  
23 wise limited by applicable State law, amounts depos-  
24 ited into a State loan fund under this subsection  
25 may only be used for the following:

1           “(A) To award loans that comply with the  
2 following:

3           “(i) The interest rate for each loan  
4 shall be less than or equal to the market  
5 interest rate.

6           “(ii) The principal and interest pay-  
7 ments on each loan shall commence not  
8 later than 1 year after the loan was award-  
9 ed, and each loan shall be fully amortized  
10 not later than 10 years after the date of  
11 the loan.

12           “(iii) The State loan fund shall be  
13 credited with all payments of principal and  
14 interest on each loan awarded from the  
15 fund.

16           “(B) To guarantee, or purchase insurance  
17 for, a local obligation (all of the proceeds of  
18 which finance a project eligible for assistance  
19 under this subsection) if the guarantee or pur-  
20 chase would improve credit market access or re-  
21 duce the interest rate applicable to the obliga-  
22 tion involved.

23           “(C) As a source of revenue or security for  
24 the payment of principal and interest on rev-  
25 enue or general obligation bonds issued by the

1 State if the proceeds of the sale of the bonds  
2 will be deposited into the State loan fund.

3 “(D) To earn interest on the amounts de-  
4 posited into the State loan fund.

5 “(7) ADMINISTRATION OF STATE LOAN  
6 FUNDS.—

7 “(A) COMBINED FINANCIAL ADMINISTRA-  
8 TION.—A State may (as a convenience and to  
9 avoid unnecessary administrative costs) com-  
10 bine, in accordance with State law, the financial  
11 administration of a State loan fund established  
12 under this subsection with the financial admin-  
13 istration of any other revolving fund established  
14 by the State if otherwise not prohibited by the  
15 law under which the State loan fund was estab-  
16 lished.

17 “(B) COST OF ADMINISTERING FUND.—  
18 Each State may annually use not to exceed 4  
19 percent of the funds provided to the State  
20 under a grant under this subsection to pay the  
21 reasonable costs of the administration of the  
22 programs under this section, including the re-  
23 covery of reasonable costs expended to establish  
24 a State loan fund which are incurred after the  
25 date of enactment of this section.

1           “(C) GUIDANCE AND REGULATIONS.—The  
2           Secretary shall publish guidance and promul-  
3           gate regulations as may be necessary to carry  
4           out the provisions of this subsection,  
5           including—

6                   “(i) provisions to ensure that each  
7                   State commits and expends funds allotted  
8                   to the State under this subsection as effi-  
9                   ciently as possible in accordance with this  
10                  section and applicable State laws; and

11                   “(ii) guidance to prevent waste, fraud,  
12                   and abuse.

13           “(D) PRIVATE SECTOR CONTRIBUTIONS.—

14                   “(i) IN GENERAL.—A State loan fund  
15                   established under this subsection may ac-  
16                   cept contributions from private sector enti-  
17                   ties, except that such entities may not  
18                   specify the recipient or recipients of any  
19                   loan issued under this subsection.

20                   “(ii) AVAILABILITY OF INFORMA-  
21                   TION.—A State shall make publicly avail-  
22                   able the identity of, and amount contrib-  
23                   uted by, any private sector entity under  
24                   clause (i) and may issue letters of com-

1                   mendation or make other awards (that  
2                   have no financial value) to any such entity.

3                   “(8) PREFERENCE IN AWARDING GRANTS.—

4                   The Secretary may give a preference in awarding  
5                   grants under this subsection to States that adopt  
6                   value-based purchasing programs to improve health  
7                   care quality.

8                   “(9) ANNUAL REPORTS.—

9                   “(A) BY STATES TO THE SECRETARY.—

10                  Each State receiving a grant under this sub-  
11                  section shall submit an annual report to the  
12                  Secretary for each fiscal year for which loans  
13                  are provided under the grant. Each annual re-  
14                  port shall include—

15                         “(i) a description of the use of grant  
16                         funds by the State loan fund in the fiscal  
17                         year, including projects assisted through  
18                         such fund;

19                         “(ii) a list of the projects to be as-  
20                         sisted through the State loan fund in the  
21                         succeeding fiscal year, as contained in the  
22                         strategic plan under paragraph (4);

23                         “(iii) a description of the financial  
24                         status of the State loan fund; and



1                   “(iii) a description of the financial  
2                   status of the State loan fund; and

3                   “(iv) such other information as the  
4                   Secretary may require regarding the grant  
5                   or the loan fund.

6                   “(B) BY SECRETARY TO CONGRESS.—The  
7                   Secretary shall annually submit to the Com-  
8                   mittee on Health, Education, Labor, and Pen-  
9                   sions and the Committee on Finance of the  
10                  Senate, and the Committee on Energy and  
11                  Commerce and the Committee on Ways and  
12                  Means of the House of Representatives, a re-  
13                  port summarizing the reports received by the  
14                  Secretary under subparagraph (A).

15               “(c) AUTHORIZATION OF APPROPRIATIONS.—

16               “(1) IN GENERAL.— For the purpose of car-  
17               rying out this section, there is authorized to be ap-  
18               propriated \$116,000,000 for fiscal year 2007,  
19               \$141,000,000 for fiscal year 2008, and such sums  
20               as may be necessary for each of fiscal years 2009  
21               through 2011.

22               “(2) AVAILABILITY.—Amounts appropriated  
23               under paragraph (1) shall remain available through  
24               fiscal year 2011.

25               “(d) DEFINITIONS.—In this section:

1           “(1) FEDERALLY QUALIFIED HEALTH CEN-  
2       TER.—The term ‘Federally qualified health center’  
3       has the meaning given that term in section  
4       1861(aa)(4) of the Social Security Act (42 U.S.C.  
5       1395x(aa)(4)).

6           “(2) GROUP PRACTICE.—The term ‘group prac-  
7       tice’ has the meaning given that term in section  
8       1877(h)(4) of the Social Security Act (42 U.S.C.  
9       1395nn(h)(4)).

10          “(3) HEALTH CARE PROVIDER.—The term  
11       ‘health care provider’ means a hospital, skilled nurs-  
12       ing facility, home health agency (as defined in sub-  
13       section (o) of section 1861 of the Social Security  
14       Act, 42 U.S.C. 1395x), health care clinic, rural  
15       health clinic, Federally qualified health center, group  
16       practice, a pharmacist, a pharmacy, a laboratory, a  
17       physician (as defined in subsection (r) of such sec-  
18       tion), a practitioner (as defined in section  
19       1842(b)(18)(CC) of such Act, 42 U.S.C.  
20       1395u(b)(18)(CC)), a health facility operated by or  
21       pursuant to a contract with the Indian Health Serv-  
22       ice, and any other category of facility or clinician de-  
23       termined appropriate by the Secretary.

24          “(4) HEALTH INFORMATION; INDIVIDUALLY  
25       IDENTIFIABLE HEALTH INFORMATION.—The terms

1       ‘health information’ and ‘individually identifiable  
2       health information’ have the meanings given those  
3       terms in paragraphs (4) and (6), respectively, of sec-  
4       tion 1171 of the Social Security Act (42 U.S.C.  
5       1320d).

6           “(5) LABORATORY.—The term ‘laboratory’ has  
7       the meaning given that term in section 353.

8           “(6) PHARMACIST.—The term ‘pharmacist’ has  
9       the meaning given that term in section 804(a)(2) of  
10      the Federal Food, Drug, and Cosmetic Act (21  
11      U.S.C. 384(a)(2)).

12          “(7) QUALIFIED HEALTH INFORMATION TECH-  
13      NOLOGY.— The term ‘qualified health information  
14      technology’ means a system or components of health  
15      information technology that meet any applicable core  
16      interoperability guidelines (endorsed under section  
17      272(a)(3)) when in use or that use interface soft-  
18      ware that allows for interoperability in accordance  
19      with such guidelines.

20          “(8) STATE.—The term ‘State’ means each of  
21      the several States, the District of Columbia, Puerto  
22      Rico, the Virgin Islands, Guam, American Samoa,  
23      and the Northern Mariana Islands.”.